

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MARC SPITZER - Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

Arizona Corporation Commission

DOCKETED

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AZ Corporation Commission
Director Of Utilities

STAFF of the Utilities Division,

Complainant,

vs.

CROWN KING WATER COMPANY, an Arizona
corporation,

Respondent.

DOCKET NO. W-01558A-04-0850

Decision No. 67517

**ORDER TO SHOW CAUSE AND
ORDER FOR INTERIM RELIEF**

Open Meeting
January 11 and 12, 2005
Phoenix, Arizona

BY THE COMMISSION:

On November 29, 2004, Staff ("Staff") of the Utilities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Complaint, Petition for Order to Show Cause; and Petition for Order for Interim Relief ("Petition") against Crown King Water Company, an Arizona Corporation. Staff's filing was supported by the affidavit of John Bulanowski. Staff seeks various relief, including the issuance of an Order to Show Cause against the Respondents and the issuance of an Order for Interim Relief.

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes and orders that:

FINDINGS OF FACT

1. On December 16, 1957, Crown King received a Certificate of Convenience and Necessity ("CC&N") to provide water service in Yavapai County. The CC&N was transferred to Charles Barney on March 3, 1976.

1 2. On January 31, 2002, Crown King's CC&N was revoked pursuant to Decision No.
2 64395 for failing to file its annual report. Crown King has failed to submit an annual report since
3 1993.

4 3. Per Commission Decision No. 64395, Crown King was to "be penalized the sum of
5 \$200 unless, within 60 days of the effective date of this Decision, [Crown King] files its 1999
6 Utilities Division Annual Report with the Director of the Commission's Utilities Division."

7 4. Crown King failed to file its 1999 Utilities Division Annual Report within 60 days of
8 January 31, 2002.

9 5. Crown King failed to pay the \$200 fine.

10 6. Crown King has failed to bill customers on a monthly basis.

11 7. Crown King continues to provide water service in Yavapai County.

12 8. On November 23, 2004, the Arizona Department of Environmental Quality ("ADEQ")
13 issued a Notice of Violation ("NOV") detailing several water quality issues that Crown King needed
14 to address.

15 9. The quality of water being produced by Crown King cannot be determined due to
16 Crown King's monitoring deficiencies. Thus, Staff believes that Crown King is providing service
17 that is inadequate, unsafe, unreasonable and insufficient to its customers.

18 10. Staff believes that the appointment of an interim manager is necessary to ensure that
19 Crown King will be able to provide proper service in the future. Without the assistance of an interim
20 manager, Staff believes that the operation by Crown King constitutes a clear and present danger to
21 the public health and safety.

22 11. Staff requests the issuance of an Order for Interim Relief appointing a qualified
23 manager selected by Staff as the manager of Crown King, upon reasonable terms and conditions
24 agreed between Manager and Staff, with full authority to conduct the business and affairs of the
25 above-mentioned water system; and ordering Crown King to indemnify, defend and hold harmless
26 the Manager for all claims relating to its management of Crown King's water system.

27 12. Staff requests that we issue an Order to Show Cause directing Crown King to show
28 cause:

- a. why its service should not be found unjust and unreasonable as described herein;
- b. why a Manager should not be appointed as described in paragraph 11;
- c. why Crown King should not indemnify, defend and hold harmless the Manager as described in paragraph 11;
- d. why the Manager should not be given the authority to explore, negotiate, and implement a long-term solution.

13. Staff's requests described in Findings of Fact 11 and 12 are reasonable.

CONCLUSIONS OF LAW

1. Crown King is a public service corporation within the meaning of Article XV of the Arizona Constitution and is subject to the jurisdiction of the Commission.

2. The Commission has jurisdiction over the subject matter of Staff's Complaint, Petition for Order to Show Cause, and Petition for Interim Relief.

3. Notice of this proceeding has been given in accordance with law.

4. The operation of Crown King water system is being conducted in a manner that presents a clear and present danger to the public health and safety, as found in Finding of Fact 10. This type of operation constitutes unjust and unreasonable service. Pursuant to A.R.S. §§ 40-202; 40-203; 40-321; 40-322, and Article XV § 3 of the Arizona Constitution, the Commission may prohibit unjust and unreasonable service. Because there is an ongoing threat of such unjust and unreasonable service, the Commission may grant the requested interim relief against Crown King described in Finding of Fact 11.

5. It is lawful and in the public interest to issue the requested Order to Show Cause against the Respondent as described in Finding of Fact 12.

6. It is lawful and in the public interest to issue the requested Order for Interim Relief as described in Finding of Fact 11.

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ORDER

IT IS THEREFORE ORDERED that Crown King shall appear and show cause at a place designated by the Hearing Division:

- (1) why its service should not be found unjust and unreasonable as described herein;
- (2) why a Manager should not be appointed as described in Finding of Fact 11;
- (3) why Crown King should not indemnify, defend and hold harmless the Manager as described in Finding of Fact 11;
- (4) why the Manager should not be given the opportunity to explore, negotiate, and implement a long-term solution.

IT IS FURTHER ORDERED that a qualified manager selected by Staff is hereby appointed as the Manager of the water system for Crown King, upon reasonable terms and conditions agreed to between Manager and Staff.

IT IS FURTHER ORDERED that the Manager shall have full authority to conduct the business and affairs of Crown King.

IT IS FURTHER ORDERED that the appointment of the Manager shall be in effect while proceedings in this docket are pending or until otherwise ordered by the Commission.

IT IS FURTHER ORDERED that Crown King may apply at any time for the termination of the appointment of the Manager upon a showing that Crown King has acquired sufficient technical, financial and managerial capabilities to operate its water system and that such application shall be heard as soon as reasonably practicable.

IT IS FURTHER ORDERED that if Crown King intends to appear and show cause as ordered above, it shall file within 10 days of the effective date of this Order a preliminary statement describing how they will make the showing of cause. This filing must include an Answer to Staff's Complaint if the filing Respondent has not yet filed an Answer.

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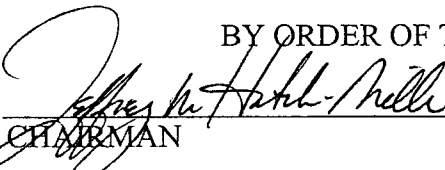
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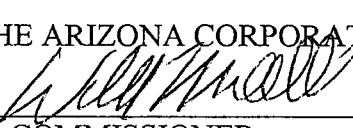
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1 IT IS FURTHER ORDERED that the Hearing Division shall forthwith schedule further
 2 appropriate proceedings.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.
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5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

6 
 7 CHAIRMAN

8 
 9 COMMISSIONER

10 
 11 COMMISSIONER

12 
 13 COMMISSIONER

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 15 COMMISSIONER

16 IN WITNESS WHEREOF, I BRIAN C. McNEIL, Executive
 17 Secretary of the Arizona Corporation Commission, have
 18 hereunto, set my hand and caused the official seal of this
 19 Commission to be affixed at the Capitol, in the City of Phoenix,
 20 this 20th day of Jan., 2005.

21 
 22 BRIAN C. McNEIL
 23 Executive Secretary

24 DISSENT: _____

25 DISSENT: _____

26 EGJ:BKB:lm\DR
 27
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